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ABSTRACT

In the past several years, a number of states have enacted laws requiring all classroom instructors employed by the state to be proficient in English. Other states will have similar laws on the books within the year, and another handful are still considering the issue. These laws have affected primarily the international teaching assistants (ITAs). Programs have been instituted to prepare the ITAs more adequately for their classroom duties, but for the most part these have been individual responses by the affected institutions. There is very little comprehensive information available on the political and administrative questions that these English proficiency laws have raised. Those questions address such issues as the locus of ultimate responsibility for ensuring compliance, the responsibility of the entities that fund and/or administer the programs, state government and university administration expectations, follow-up and enforcement mechanisms, definitions of proficiency, and assessment and placement of the ITAs. Reports from the state governments suggest a variety of solutions to the proficiency requirements. (Author/MSE)

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Paper

Program Administration

State-mandated English proficiency requirements for classroom instructors

Jessica Williams

In the past several years, a number of states have enacted laws requiring all classroom instructors employed by the state to be proficient in English. Other states will have similar laws on the books within the year, while another handful are still considering the issue. These laws have primarily affected international teaching assistants (ITAs). Programs have been instituted to prepare the ITAs more adequately for their classroom duties but for the most part, these have been individual responses by the affected institutions. There is very little comprehensive information on the political and administrative questions which these English proficiency laws have raised.

Who ultimately is responsible for ensuring compliance? Is this the same entity as the one which funds and/or runs these programs? What are the expectations of the state governments and of the university administrations? Are there any follow-up or enforcement mechanisms to ensure that these expectations are met? How is proficiency defined, if at all? Who decides which ITAs need training and when they are ready for the classroom? Various solutions to the proficiency requirements are examined based on reports from the states governments.

Paper presented at the 22nd Annual TESOL
Convention, 8-13 March, 1988, Chicago, Illinois

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During the past several years, the issue of English language proficiency among instructional personnel at institutions of higher education has caught the attention of state legislators across the country. This has largely been in reaction to complaints by undergraduates at state universities (and their parents) about the inability of international teaching assistants to communicate in the classroom. The following is a brief discussion of various states' responses to this problem. The information is based on a survey which was carried out in late 1987 and early 1988. There have almost certainly been changes since that time. In this survey, I requested information on the states' definitions of proficiency, the wording of the laws, sources of funding for programs to ameliorate the situation and requirements for instruction and/or remediation. In addition, I obtained from states where legislation is already in place on this subject, notes and transcripts of debates surrounding this issue. Forty-five of the fifty states responded to the inquiry. States not included in this survey are Connecticut, Delaware, Maine and Vermont.¹

According to the results of this survey, nine states have actual legislation which in some way addresses this issue; five more have bills pending (see chart). Six more states have regulation on minimum proficiency issues from some non-legislative body, such as a Board of Regents. However, this last figure may well be too low, because my initial inquiries were directed at the legislatures themselves. In many cases, the public information sections of these bodies seemed strangely unaware of statutes issued by non-legislative agencies. There have, of course, been individual responses by numerous state universities without the prompting of their legislatures. However, this report focuses specifically on legislative responses. In addition to the states already mentioned, three more have had English proficiency bills introduced, but which have died in committee or on the floor. In other words, almost one half of all the states have addressed this problem of lack of English proficiency among instructional personnel. Furthermore, although this issue may not have always received specific attention, in states which have passed English Only amendments, legislation regarding the English proficiency of state employees is a logical next step. It may only be a matter of time before laws regulating

¹ California did not respond, but information was collected independently.

teaching personnel begins to appear.

Two of the most important issues involved in these regulations are the degree of specificity in the wording of the laws, and the degree to which proficiency is defined. By and large, the wording of the regulations is left relatively vague. They declare that low English proficiency is indeed a serious problem at public universities and stipulate that instructional personnel should be assessed, and those found wanting should receive some sort of remediation. A fairly typical piece of legislation reads something like this, "X entity (the board of trustees, the board of higher education etc.) shall establish a program to assess the English language proficiency of instructional personnel and ensure that those persons found not to be proficient attain proficiency before providing any classroom instruction. To this end, a remediation program shall be established to ensure the oral language proficiency of all classroom instructors." In the debate preceding the passage of the Illinois state law, for instance, the sponsors of the bill made it quite clear that they had no intention of being more explicit. All details of how assessment and instructional programs would be set up are left to the individual affected institutions.

Clearly, this kind of wording leaves room for a variety of interpretations, frequently giving universities a significant degree of discretion in the execution of the legislation. More important, however, is the lack of definition of the term proficiency. Lawmakers, understandably, have little notion of complexity of this issue. Frequently, the problem is couched in terms of being "understandable." In the Illinois debate, when House members balked at the idea of testing the proficiency of the entire faculty, it was suggested that language competence be assessed without the administration of a test. "It's extremely simple," one lawmaker said, "They just get together and say, 'Can we understand Professor Johnson?'"

Notes accompanying the statutes in other states indicate that many legislators believe that there exists a test which efficiently separates the proficient from the non-proficient. The TOEFL is frequently mentioned in debate. It is obvious that many are not aware that it includes no assessment of oral production. The Test of Spoken English, or the institutional version, the SPEAK, is named directly in several statutes. Florida, Kansas, Kentucky and Tennessee, all name this test in their laws. "Passing" scores range from 220 to 250. In some instances, it is simply stated that a "satisfactory" grade

must be achieved, with the decision as to what constitutes satisfactory left up to the hiring institution. Some bills vaguely refer to unnamed proficiency tests. In Louisiana, a concurrent resolution now pending requires an acceptable score on the "test of English as a foreign language." A Senate bill now being debated on New York refers to "an objective test administered by a national testing organization." Perhaps this is the SPEAK; it is not clear. Except in these few cases, where TSE scores are specified, proficiency is left undefined, making these laws potentially unenforceable. From the point of view of the state universities, providing they act in good faith, I would suggest, however, that this is not such a bad thing.

This brings us to the next important point: responsibility, follow-up, and compliance in general. In all of the legislation mentioned so far, the responsibility for assessment and instruction is explicitly or implicitly handed over to the universities. There is also some misconception on the part of the legislators that universities would not deliberately hire faculty who are not proficient in English. In the Illinois debate on the issue, one member asked, "Do we, for one minute, think that faculty deliberately invites to join, as faculty members, people who they, themselves cannot understand in ordinary conversation?" Those who are working in programs to assess and improve oral proficiency of teaching personnel know that this is exactly what does happen, and with disturbing frequency. It is the universities which hire non-native speaking personnel and then are charged by state governments with improving their proficiency. In some cases this charge is mediated by a Board of Regents or a Board of Higher Education.

In no case are these measures accompanied by any appropriations to fund the programs. In other words, the university or university system is expected to establish, fund and oversee programs which, in many cases, they have fought to prevent. This is not to say that these institutions will intentionally pervert the system; some already do a very good job. However, no university wants the responsibility and headaches of establishing and maintaining such a program without the wherewithal to do so. It is a difficult and potentially expensive task if it is to be done well. When state government simply demands that something be done but does not state exactly what, or how, it is up to the universities themselves to put the teeth into the laws.

One may then ask, why should state government be involved at all? Once the statute has been passed, is there any effort on the part of the state legislatures to find out what the results of their actions have been? Only three of the states (California, Missouri and Oklahoma) explicitly call for measures which check on compliance with the law. In only one state (Tennessee) is the hiring institution required to document their employees' ability to communicate in written and spoken English prior to their hiring date. It is usually assumed that the universities will carry out the spirit of the law without much supervision from the state. It is apparent from the accompanying notes to much of the legislation and from press clippings in these states that the barometer by which lawmakers measure compliance and successful outcome of this type of legislation is the number of complaints they receive from constituents. As long as there are no irate parents knocking at their door, it is not important who is handling the problem or how. In a debate in one state, when the sponsor was asked who would develop proficiency criteria, he responded, "that should be left to whoever." Legislators do not know what is involved in either the assessment procedure or in instruction. The sponsor of the Illinois bill is perhaps typical. He maintained that the State Department sends diplomats abroad after only three weeks of training and that they "not only function to ask 'Pass the pepper' or 'Give me some more coffee' but who can speak in a diplomatic language and represent the United States in that country."

To pursue the area of undergraduate and parental complaints a bit further, only one state explicitly provides a grievance procedure (Oklahoma), whereby students can notify university authorities of communication problems in the classroom. Such mechanisms have also been developed, however, even where the state law does not overtly demand them. In the state of Illinois, individual universities have had official grievance procedures to report complaints about international teaching assistants' proficiency in place for about a year. So far, no complaints have been received through these channels despite extensive publicity. In spite of these new measures, complaints continue to be received by state senators. If the sole purpose of these complaints were to rectify the problem, surely this would not be the method of choice since, under the guidelines established at these universities, a student who is unhappy with his teaching assistant's language proficiency may change section without prejudice. At the

University of Illinois-Chicago, a survey of randomly chosen international teaching assistants was conducted in order to ascertain the level of oral proficiency of teaching assistants already serving as classroom or laboratory instructors. Their performance was rated by two independent observers. All were rated as intelligible based on the criteria used in the TSE and SPEAK tests.

The issue of undergraduates' role in this situation is important, one which universities may wish to consider in setting up programs to improve their teaching assistants' proficiency. Foreign graduate students, and consequently, foreign teaching assistants, are a reality in American universities. They are not going to disappear; on the contrary, their numbers will probably grow. In many cases, their English proficiency is reasonably good, but they retain a discernible foreign accent and many are unfamiliar with American classroom settings. These foreign graduate students often end up in state universities in cities and towns where the the undergraduates and the local population may have had relatively little exposure to people from other cultures, particularly Asians, the population about which lawmakers receive the greatest number of complaints. It may then, be equally important to provide some sort of orientation for the undergraduates themselves, particularly those in the sciences and technical fields, who are likely to encounter international teaching assistants. For them, it especially important to develop some understanding of and sensitivity to other cultures, since it is possible that they will continue to work with people from different backgrounds after they graduate. Such an orientation program might be effective in stemming student complaints. However, it is not one which is likely to be suggested in state legislatures; it would hardly be a popular measure, especially in light of the current English Only movement. The general perception is that foreigners must adapt to our culture and become proficient in our language. It is not often considered that Americans might do some adapting of their own.

This is just one more reason why universities may want to preempt their state legislatures and establish programs to handle the issue of international teaching assistants' language proficiency before lawmakers hand them a solution they may find untenable. For instance, a bill was introduced in Arizona in 1986 which would have placed quotas on the number of foreign students in any program within the state university

system. Under the provisions of this bill, no program could have more than 25% foreign students. This kind of legislation would have had a dramatic, even disastrous effect on engineering programs in particular, but on many others as well. In addition, the bill used the term, "students from a foreign country." Presumably this could include England, Canada, etc. In addition to students from English speaking countries, there are also a large number of students from countries such as India, Malaysia, and Singapore. These students may have been using English for many years and may have received all of their higher education in English. Presumably, all of these students would be considered foreigners. This same bill would have limited the number of teaching personnel to 10% of any program. Arizona is indeed fortunate that this legislation failed to pass the House of Representatives.

Another potential problem of many of the proficiency laws which have been passed is the open wording regarding the target population. Most refer to "instructional personnel" or similar entities. This would, of course, include faculty, many of whom may have been teaching at these universities for many years. Are full professors who happen to have arrived from China, Czechoslovakia, etc, ten years ago now expected to take the SPEAK test? What would be the consequences if they do not "pass?" The Illinois law explicitly goes beyond teaching assistants to include faculty. Legislators there suggested that these professors could be given "a little extra help to learn to communicate with the students." It seems far-fetched to think that faculty will sit still for language instruction, no matter what guise it is cloaked in. In practice, it appears that even in states where the law includes faculty, this part of the law is being quietly ignored. In Florida, for instance, state universities are considering dropping their plan to test for proficiency, partly because they feared that they might be challenged on constitutional grounds.

It is also interesting to note how lawmakers view the issue of instruction. In general, they see it as an accent problem and call for remediation in language skills, particularly in oral production. This probably reflects the public perception, voiced by unhappy undergraduates that, "I can't understand what my instructor is saying." It is undoubtedly the case that the oral/aural skills of newly arrived graduate students is often less than ideal. However, remediation may not be what is required to rectify the problem. The skills and knowledge which are needed to become a successful

teaching assistant go far beyond language training (see Rounds 1987). They include such well-acknowledged areas as orientation to the United States and its cultural, particularly, educational institutions, effective communication styles, non-verbal communication, presentation of information, classroom management, etc. None of these can be viewed as remediation. Parenthetically, these are the skills which experienced foreign-born professors have probably mastered long ago. It is precisely these skills which incoming teaching assistants need help with, in addition, perhaps to fluency and pronunciation practice. You will not, however, find any mention of these in state laws, or even in the debates surrounding them. Indeed, why would lawmakers have much insight into this issue? To them and to the public, the problem is language proficiency, often specifically, pronunciation.

If members of the university community in which such problems may develop anticipate legislation on this issue, it is possible for them to exercise greater control over how these programs are developed. Unfortunately, it is often difficult to enlighten university administration without the clout of state legislatures. Since state governments rarely provide funding specifically for the preparation of teaching assistants, it is finally the purse strings of the either the central administration of the affected departments which must loosen. Thus, we have completed a vicious circle. It is often impossible to establish these programs until state universities are pressured into action by their legislatures. The universities themselves usually oppose legislation as a loss of their autonomy. If they lose the battle, they may be stuck with legislation they do not like. On the other hand, universities may seek to head off such legislation by establishing innovative programs to improve the performance of their teaching assistants. This is the case, for instance, of Wisconsin. In spite of these efforts, complaints from constituents and attention from the press may pressure the legislature into action. It is unclear whether an official statute or a university preparation program is more effective in convincing the public that something is being done about their complaints. There is no doubt that low English proficiency among international teaching assistants is an increasing problem. It is likely that the xenophobia which has accompanied the English Only movement will pressure more state legislatures to act on the problem. However, there are many advantages to having language professionals, and not state legislators,

deal with this situation, leaving it in the hands of those who have little insight into the complexity of the issue could have disastrous results. The best way to ensure that instruction remains in the hands of experts is to set up appropriate and effective preparation programs before public outcry prods state governments into action.

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Legislative Responses

<u>Legis. passed</u>	<u>Legis. pending</u>	<u>Legis. intro'd but died</u>	<u>Regulations (other bodies)</u>
California			
Florida	Indiana	Arizona	Arizona
Illinois	Iowa	Arkansas	Kansas
Missouri	Louisiana		Kentucky
North Dakota	New York		Michigan
Ohio	Pennsylvania		Oregon
Oklahoma			Washington
Tennessee			
Texas			

States not responding: Connecticut, Delaware, Maine, and Vermont